

washingtonpost.com

Restitution Sought for Clarksburg Inquiry

Montgomery Might Reimburse Residents Group Up to \$500,000 for Costs

By Tim Craig and Miranda S. Spivack
Washington Post Staff Writers
Sunday, January 15, 2006; C05

The Montgomery County Council is considering reimbursing Clarksburg residents who exposed lapses in the county's planning process up to a half-million dollars in legal fees, meals, cell phone bills, office supplies and mileage.



The council has scheduled a discussion of the proposal for Tuesday. It received the request from the Clarksburg Town Center Advisory Committee, which uncovered the county's failure to adequately oversee developers and builders in the northern Montgomery community.

Although some council members said the county's lapses might justify the payment, others feared it would set a costly precedent to ask taxpayers to pick up the tab for groups that fight local government and unearth irregularities.

"I want to assess the reaction of my constituents as to whether this is a good idea or not," said council President George L. Leventhal (D-At Large).

The request for reimbursement came at the same time the county's independent inspector general, Thomas J. Dagley, gave his clearest indication to date of the scope of his probe of development irregularities at Clarksburg Town Center, parts of which were built too tall and too close to the street.

The findings prompted multiple investigations, including a report from the council's investigative arm that found in November that the planning department was too casual in its recordkeeping and often made key decisions out of public view.

In a memo to county leaders last week, Dagley said he is continuing to investigate whether "false, misleading or altered entries appear on public records." He said he is examining the authenticity of planning documents and signatures on those documents.

The Clarksburg residents, whose findings sparked Dagley's investigation, say the county should help them pay their attorneys, Norman Knopf and David W. Brown. The residents said they had logged thousands of hours investigating irregularities at Clarksburg Town Center, doing work the county should have done.

"This is a case where the county acknowledged the work we have done and [is] using the work we have done," said Amy Presley, a leader of the group. "Why on Earth should I have to pay for the privilege to correct the county's ills? . . . We are not asking that our time be paid, but we darn sure are asking that we don't come away from this process having to mortgage our homes."

The residents group, planning officials and developer Newland Communities of San Diego have agreed to mediate their differences and are scheduled to begin a three-day session this month to come up with a plan for completing the community.

In their request for reimbursement, Presley and the seven other committee members are asking the county to pay \$267,000 in legal fees and expenses owed to the Rockville law firm of Knopf & Brown, whose attorneys have charged the group \$225 an hour.

Committee members also are seeking reimbursement for \$35,691 for office supplies, mileage, parking, meals and "miscellaneous expenses" such as copying fees, cell phone charges and the hiring of experts, including a handwriting expert. Of that total, \$2,925 was itemized as meals.

Group members also want the county to set aside an additional \$200,000 for expected legal expenses that they believe they will incur because of the ongoing mediation.

Council member Steven A. Silverman (D-At Large), chairman of the council committee that oversees development, said he is sympathetic to the residents.

"The government should make amends to the community for pursuing a unique situation," said Silverman, who is running for county executive.

Several other council members say they would prefer the group to negotiate legal fees and expenses with the developer during mediation.

"I think there are issues of precedent if the county steps in on this," said council member Marilyn Praisner (D-Eastern County).

But Presley said haggling over legal fees in the mediation would distract from the primary goal of improving the community for residents and diminish the group's bargaining power.

The Clarksburg controversy has been a major distraction for elected officials, who are eager to put the matter behind them. But Dagley's memo suggests that is unlikely to happen.

Although his memo, which he sent to the council, Planning Board Chairman Derick P. Berlage and County Executive Douglas M. Duncan (D), was short on detail, Dagley suggested that he will examine closely whether key planning documents had been faked.

In November, the residents group hired a handwriting expert, who said there was evidence that several different signatures on planning documents appeared to have been made by the same person. Planning officials and representatives of the developer have said there was no wrongdoing.

Dagley also wants to know whether property "was wrongfully transferred" in Clarksburg. The residents group had produced documents showing property lines and building plans that did not match what was built.

Dagley declined to discuss his findings yesterday. But in his memo, he wrote that he reserves the right to refer his findings to criminal prosecutors.

Berlage said his agency has cooperated fully with Dagley.